

Remarks:

The above amendments and these remarks are responsive to the Office action dated November 3, 2005.

Prior to entry of this Amendment, claims 1-33 remained pending in the application. Claims 15-18 and 22-27, however, had been withdrawn from consideration pursuant to an earlier restriction requirement.

By this Amendment, applicant has cancelled claims 15-18 and 22-27 without prejudice. Claims 34-39 are added. The new claims ultimately depend from independent claims 1 and 21, and thus are appropriately considered with Invention I as defined in the earlier restriction requirement. Accordingly, with entry of the foregoing amendments, claims 1-14, 19-21 and 28-39 are pending in the present application.

In the November 3, 2005 Office action, claims 1-14, 19-21 and 28-33 were provisionally rejected under the judicially created doctrine of obviousness type double patenting over claims 1-64 of co-pending US Patent Publication No. 2004/0163641A1 (identified as "Application No. 2004/0163641A1").

In particular, the Examiner asserts that the "subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that application since the referenced application and the instant application are claiming common subject matter." Applicant respectfully disagrees.

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Furthermore, applicant notes that the present "provisional" obviousness type double patenting rejection is the only rejection remaining in the present application.

Applicant notes, however, that M.P.E.P. §804(I)(B) states:

If the "provisional" double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent...

Accordingly, inasmuch as the "provisional" obviousness type double patenting rejection is the only rejection remaining in the present application, the Examiner must now withdraw the "provisional" obviousness type double patenting rejection in this application.

Applicant believes that this application is now in condition for allowance, in view of the above amendments and remarks. Accordingly, applicant respectfully requests that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned attorney of record.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to Examiner S. Ali, Group Art Unit 3743, Assistant Commissioner for Patents, at facsimile number (571) 273-8300 on February 2, 2006.



Christie A. Doolittle

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